UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

MELANIE A. CALLA,
Plaintiff,

vs.

DUKE ENERGY CORP.,
Defendant.

Case No. 1:11-cv-562

Beckwith, J.
Litkovitz, M.J.

REPORT AND RECOMMENDATION

Plaintiff Melanie A. Calla initiated this employment discrimination action through counsel seeking monetary and injunctive relief from defendant Duke Energy Corp. (Doc. 1). After the scheduling order was entered, counsel for plaintiff moved to withdraw due to Ms. Calla's failure to cooperate and communicate with counsel in the prosecution of this action. (Doc. 23). On August 28, 2012, the Court granted counsel's motion to withdraw from this matter and plaintiff was ordered "to direct substitute counsel to file a notice of appearance in this action on or before September 28, 2012." (Doc. 24). If plaintiff had not retained counsel by that date, she would be required to proceed pro se. To date, no substitute counsel has appeared and plaintiff is proceeding pro se. *See* Doc. 26.

In light of plaintiff's pro se status, the District Judge referred this matter to the undersigned Magistrate Judge to set a new scheduling order. *Id.* The scheduling conference was set for December 18, 2012 at 2:30 p.m., and plaintiff was sent notice via U.S. mail that she was to appear telephonically at this conference. (Doc. 27). Plaintiff failed to appear at the conference.

On December 20, 2012, plaintiff was ordered to show cause, in writing and within fourteen days, why this case should not be dismissed for want of prosecution. (Doc. 29). The Order was sent to plaintiff by certified mail which was acknowledged as received. (Doc. 30).

To date, more than fourteen days later, plaintiff has not responded to the Show Cause Order.

District courts have the inherent power to *sua sponte* dismiss civil actions for want of prosecution to manage their own affairs so as to achieve the orderly and expeditious disposition of cases." *Link v. Wabash R.R.*, 370 U.S. 626, 630-631 (1962). *See also Jourdan v. Jabe*, 951 F.2d 108, 109 (6th Cir. 1991). Failure of a party to respond to an order of the Court warrants invocation of the Court's inherent power. *See* Fed. R. Civ. P. 41(b).

IT IS THEREFORE RECOMMENDED THAT plaintiff's case be **DISMISSED** with prejudice for lack of prosecution and this matter be terminated on the docket of the Court.

Date: 1/14/13

Karen L. Litkovitz
United States Magistrate Judge

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NOTICE TO THE PARTIES REGARDING FILING OF OBJECTIONS TO THIS R&R

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to these proposed findings and recommendations within **FOURTEEN DAYS** after being served with this Report and Recommendation ("R&R"). Pursuant to Fed. R. Civ. P. 6(e), this period is automatically extended to seventeen days (excluding intervening Saturdays, Sundays, and legal holidays) because this R&R is being served by mail. That period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. If the R&R is based, in whole or in part, upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within **FOURTEEN DAYS** after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F. 2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).

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